

## **REMARKS**

Applicant thanks the Examiner for the Office Action mailed January 11, 2006 and the Advisory Action mailed July 6, 2006. In the Office Action, the Examiner objected to the Drawings as not showing every feature of the inventions specified in the claims. The Examiner further objected to the Specification as failing to provide proper antecedent basis for the claimed subject matter. Furthermore, the Examiner objected to Claim 4 for using the recitation "can be changed."

The Examiner also rejected Claims 1-12 under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner also rejected Claims 1-16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,618,864 issued to Veal ("Veal").

In this response, Applicant has amended the Specification and Claims. Applicant respectfully submits that the Claims as amended are allowable. Applicant respectfully requests that the objections and rejections to the present application be withdrawn and the application be allowed.

### **IN THE DRAWINGS:**

In the Office Action mailed January 11, 2006, the Examiner objected to the drawings for not showing "the horizontally rotatable lever as recited in claim 1 and the locking configuration by rotating the claim [sic] 180 degrees." Applicant respectfully disagrees.

For example, the drawings show a dual part lever assembly 29 (FIGS 2, 9-13) that is secured to a turret 91 (FIG. 8) positioned on top of the cover 27 of a housing 21 and a lever 121 (FIGS 2, 12-13, and 16-18) that is pivotally attached to a lever mount 115 of the lever assembly 29. The lever assembly assembly 29 is rotatable around about the turret 360 degrees in either a clockwise or counterclockwise direction, such that the lever 121 can be horizontally rotated to a desired position (Para. No. 39-40 and 47-49).

In addition, the drawings show a mounting clamp 23 (FIGS. 2, 3, and 14-15) that may be securely locked or removably affixed to the base 25 (FIG. 2) of the housing 21 by inserting opposite ends of the mounting plate 167 into the guide rails 39 on sidewall 31A and sliding the

clamp through the channel 41 (FIG. 3) until the mounting plate 167 reaches the closed end of 40 (FIG. 3) the channel (Para. No. 45).

In view of these remarks, Applicant respectfully requests that the Examiner withdrawn this objection.

#### **IN THE SPECIFICATION:**

In the Office Action mailed January 11, 2006, the Examiner objected to specification as failing to provide proper antecedent basis for the terms “a locking configuration by rotating the clamp 180 degrees” in Claim 4. Applicant respectfully disagrees.

For example, the specification teaches that “the automatic flushing actuator for tank style toilets 1 (FIG. 1) of the present embodiment may include a housing 21 and a mounting clamp 23, which are adapted to be placed inside a tank of a toilet and secured to the overflow pipe 17 (FIG. 1)” (Para. No. 34). The specification also teaches that the clamp 23 “has a mounting plate 167 opposite the securing tabs 153A-B for affixing the clamp to the base 25 (FIG. 2) of the housing 21 (FIG. 2). As shown in FIG. 14, the mounting plate 167 is generally rectangular in shape and has longitudinal edges 169. A tab 171 extends from one end of the mounting plate 167 and includes an opening 173 extending partially through the tab for locking the clamp to the base 25” (Par. No. 44).

In particular, Paragraph 45 states “[t]he clamp may be securely locked or removably affixed to the base 25 (FIG. 2) by inserting one end of the mounting plate 167 into the guide rails 39 on sidewall 31A and sliding the clamp through the channel 41 (FIG. 3) until the mounting plate 167 reaches the closed end of 40 (FIG. 3) the channel. If the clamp is secured to the base by inserting the rectangular end 168 of the mounting plate 167 into the channel 41, the clamp may be easily removed from the housing. Alternatively, if the clamp is rotated 180 degrees so that the opposite end of the mounting plate 167 with the tab 171 is inserted into the channel first, the opening 173 in the tab 171 will engage the ridge 42 on the base and lock the clamp to the housing” (Para. No. 45). With this response, the specification has been amended at Paragraph 45 for clarity and no new matter has been added. The amendment is supported by paragraphs 44 and 45 on page 9 of the application as originally filed.

In view of these remarks, Applicant respectfully requests that the Examiner withdraw the objections to the specification.

## **IN THE CLAIMS:**

In the Office Action mailed January 11, 2006, the Examiner rejected Claims 1-12 under 35 U.S.C. § 112 and has rejected claims 1-16 under 35 U.S.C. § 102. The Examiner also has objected to Claim 4. Applicant will discuss each basis of rejection individually.

### **Objection to Claim 4**

In the Office Action mailed January 11, 2006, the Examiner objected to Claim 4 for using the recitation “can be changed.” Applicant has amended Claim 4. Applicant submits that the Examiner’s objections to Claim 4 are overcome in view of the present amendment made to Claim 4.

### **Rejection of Claim 1-12 Under 35 U.S.C. § 112**

The Examiner rejected Claims 1-12 under 35 U.S.C. 112, second paragraph, as being indefinite for two reasons. First, the Examiner rejected independent Claim 1 as being indefinite because the recitation “a clamp for [sic] mounting a [sic] housing on a component in the toilet tank” is inferentially included as part of the claimed combination of elements. Applicant has amended independent Claim 1 and dependent Claims 6 and 7 to more clearly specify the claimed combination of elements. No new matter has been added. Applicant submits that Claims 1, 6, and 7 as amended are allowable, and respectfully requests that the Examiner withdraw this § 112 rejection.

The Examiner also rejected independent Claim 1 as being indefinite because the recitation “a horizontally rotatable lever” does not have any support in the original specification and is not accurate. Applicant traverses this rejection. As noted above, the specification teaches a dual part lever assembly 29 (FIGS 2, 9-13) that is secured to a turret 91 (FIG. 8) positioned on top of the cover 27 of a housing 21 and a lever 121 (FIGS 2, 12-13, and 16-18) that is pivotally attached to a lever mount 115 of the lever assembly 29. The lever assembly 29 is rotatable around about the turret 360 degrees in either a clockwise or counterclockwise direction, such that the lever 121 can be horizontally rotated to a desired position (Para. No. 39-40 and 47-

49). In view of these remarks, Applicant submits that independent Claim 1 is allowable. Furthermore, because Claims 2-12 are dependent on Claim 1, Applicant submits that these claims are also allowable. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1-12 under 35 U.S.C. § 112.

#### **Rejection of Claims 1-16 Under 35 U.S.C. § 102**

The Examiner rejected Claims 1-16 under 35 U.S.C. 102 as being anticipated by Veal. Applicant has amended independent Claims 1 and 13. No new matter has been added.

Applicant submits that the Examiner's rejections of independent Claims 1 and 13 are moot in view of the present amendment made to those claims. In addition, because Claims 2-12 and 14-16 are all dependent on independent Claims 1 and 13, Applicant submits that Claims 2-12 and 14-16 are also allowable. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1-16 under 35 U.S.C. § 102.

### SUMMARY

Each of the rejections in the Office Action mailed January 11, 2006, has been addressed and no new matter has been added by the present amendments. Applicant submits that all of the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned at (312) 245-5385 if such communication would expedite the prosecution of this application

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mircea Tipescu", written over a horizontal line.

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